

MULTIMEDIA



UNIVERSITY

STUDENT ID NO

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MULTIMEDIA UNIVERSITY

## FINAL EXAMINATION

TRIMESTER 1, 2018/2019

**UCR2612 – CRIMINAL LAW I**

(All Sections / Groups)

20 OCTOBER 2018

Reading Time : 9.00 am – 9.15 am

(15 Minutes)

Answering Time: 9.15 am – 12.15 pm

(3 Hours)

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### INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 3 pages with 5 Questions in TWO Parts.
3. Attempt **FOUR** out of FIVE questions. You are required to choose **ONE** question in **PART A** whereas in **PART B** all questions are **COMPULSORY** to be answered. All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are allowed to bring into Examination Hall **CLEAN** and **ORIGINAL** copy of Penal Code (Act 574). Students are not allowed to lend or borrow the statute during the Examination.
5. Please write all your answers in the Answer Booklet provided.

**PART A (CHOOSE ONLY ONE OUT OF TWO QUESTIONS)****Question 1**

Ana is 24 years old and was certified as a person who is intellectually disabled. She also had a learning disability. She lives with her aunty who has a 12 years old daughter named Ayu. Ana dislikes Ayu as she always teases Ana. One night, the aunty asked Ana to look after Ayu as she had an urgent matter to attend to and she reminded Ana not to play roughly with Ayu as she was unwell. Everything went on well until Ayu started to cry for her mother. Ana was irritated and she took some pillows and put them on top of Ayu and sat on her for a while until Ayu stopped crying. Ana knew that it was dangerous yet she proceeded as she thought that the warmth of the pillows would calm Ayu. When her aunty came back, she found Ayu unconscious and immediately took her to the hospital. However, she was pronounced dead and the cause of death was due to ruptured liver and pancreas. Ana was subsequently charged under section 299 of the Penal Code for Ayu's death.

Based on the given problem discuss the following:

a) Whether Ana may be liable for the charge.

(15 marks)

b) Whether Ayu may rely on any possible defences.

(10 marks)

**(Total 25 marks)**

**Question 2**

Herman and Donnie were detainees under remand in a *Balai Polis* in *Bukit Beruang*. Herman was a tall, fierce and robust person while Donnie was just a young teen who was caught for stealing a motorcycle. They were put together in the same cell. Donnie, who was afraid of Herman, screamed loudly at the police officers so that they would change his cell. He shouted saying that Herman was an ugly beast.

Annoyed by Donnie's remarks, Herman shouted for Donnie to be quiet. Instead of listening to Herman, Donnie insulted him and called him a big black bear. Herman lost his patience and pushed Donnie to the corner of the cell and injured him in the nose, throat and chest. Donnie fainted and was rushed to the hospital and died five days later.

Pathologist confirmed that the death of the deceased was due to the strong impact of blunt trauma on the chest. Herman was then charged with the killing under section 302 of Penal Code. However, Herman argued that the elements of the charge were not proven and his charge should be reduced as he reacted to Donnie's insults

**Continued...**

Based on the given situation, discuss the following:

- a) Whether Herman may be liable for murder.

(15 marks)

- b) Whether Herman may rely on any special exceptions under section 300 of the Penal Code.

(10 marks)

(Total 25 marks)

**PART B (ALL QUESTIONS ARE COMPULSORY)**

**Question 3**

Samson was an experienced swimming instructor who specialised in teaching physically disabled children to swim. Mr. Tito had a daughter, by the name of Nemo. She was 12 years old and had met with a road accident a few years ago and she lost her right arm in the tragic accident. Mr. Tito met Samson a few weeks ago and explained his daughter's desire to learn swimming and the fact that she had a missing arm.

Samson told Mr. Tito that he was able to coach Nemo and he had coached someone before who was also physically disabled. Mr. Tito was pleased to hear this and had immediately enrolled Nemo. Nemo had attended several lessons and was learning very fast. Last Wednesday, she came for her lesson as usual and Samson was busy talking to his ex-wife on the phone as they were settling their divorce matters. He saw Nemo near the swimming pool but he was too engrossed in his telephone conversation to tell her to wait for him. After he finished his conversation, which took about an hour, he realised that Nemo was nowhere to be found. To his horror he saw her lifeless body near the swimming.

Samson was arrested and is being charged under s 304A. Describe by citing relevant case law and legal principles if the prosecution is able to prove the offence.

(Total 25 marks)

**Question 4**

Ken and Ryu were cousins and they liked to prank others. One day, they planned to tease Mr. Ally, a neighbour aged 50 years old. Ken waited in front of Mr. Ally's house and when Mr. Ally approached him, he pretended to lose his balance and when Mr. Ally tried to help him, Ken pushed Mr. Ally to the ground. Mr. Ally suffered a cut on his knee and he scolded Ken for being clumsy. When Ryu saw the commotion he tried to calm Mr. Ally by saying that they merely wanted to have some fun.

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Hearing that, Mr. Ally became furious and yelled at both of them. Ryu lost his temper and immediately punched Mr. Ally on his face. Ken did not stop Ryu. Shortly thereafter, the police arrived and the parties were brought to the police station. *Vide* Mr. Ally's medical report, it was confirmed that he suffered, *inter alia*, a cut on the knee, injury to his inner ear and fractured his cheek bones.

Ken and Ryu were then charged in the court for the injuries caused to Mr. Ally. However, Ken argued that he had no intention to injure Mr. Ally and that it was only an accident. Whereas, Ryu contended that he should not be charged with the serious injuries, since his action caused only slight harm to Mr. Ally.

Determine the liabilities of Ken and Ryu respectively.

**(Total 25 marks)**

### **Question 5**

**Briefly state** the facts of *Chung Tain Kiong v PP* [2010] 2 CLJ 308, **discuss** the elements that need to be established if private the defense is to be raised and **explain** why the defense failed and **its implication** on the defendant.

**(Total 25 marks)**

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